

useful plants, clog waterways and interfere with navigation, cause disease, or have other adverse effects upon man or his environment and therefore is detrimental to the agriculture and commerce of the United States and to the public health. The uncontrolled distribution within the United States of noxious weeds after their importation or interstate distribution has like detrimental effects and allowing such distribution encourages and facilitates the burdening and obstructing of interstate and foreign commerce, and is inimical to the public interest. Accordingly, the Congress hereby determines that the regulation of transactions in, and movement of, noxious weeds as provided in this chapter is necessary to prevent and eliminate burdens upon and obstructions to interstate and foreign commerce and to protect the public welfare.

(Pub. L. 93-629, §2, Jan. 3, 1975, 88 Stat. 2148.)

#### SHORT TITLE

Section 1 of Pub. L. 93-629 provided: "That this Act [enacting this chapter] may be cited as the 'Federal Noxious Weed Act of 1974'."

### § 2802. Definitions

As used in this chapter, except where the context otherwise requires:

(a) "Secretary" means the Secretary of Agriculture of the United States or any other person to whom authority may be delegated to act in his stead.

(b) "Authorized inspector" means any employee of the Department of Agriculture, or any employee of any other agency of the Federal Government or of any State or other governmental agency which is cooperating with the Department in administration of any provisions of this chapter, who is authorized by the Secretary to perform assigned duties under this chapter.

(c) "Noxious weed" means any living stage (including but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation or the fish and wildlife resources of the United States or the public health, and includes kudzu (*Pueraria lobata* Dc).

(d) "United States" means any of the States, territories, or districts of the United States.

(e) "Interstate" means from any State, territory, or district of the United States into or through any other State, territory, or district.

(f) "District" means the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States.

(g) "Move" means deposit for transmission in the mails, ship, offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport or move, or allow to be moved, by mail or otherwise.

(Pub. L. 93-629, §3, Jan. 3, 1975, 88 Stat. 2148; Pub. L. 105-86, title VII, §728, Nov. 18, 1997, 111 Stat. 2108.)

#### AMENDMENTS

1997—Subsec. (c). Pub. L. 105-86 inserted "and includes kudzu (*Pueraria lobata* Dc)" before period at end.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2809 of this title.

### § 2803. Movement of noxious weeds into or through the United States or interstate

#### (a) Regulations

No person shall import or enter any noxious weed identified in a regulation promulgated by the Secretary into or through the United States or move any noxious weed interstate, unless the movement is in accordance with such conditions as the Secretary may prescribe by regulation under this chapter to prevent the dissemination into the United States, or interstate, of such noxious weeds.

#### (b) Permits

The regulations prescribed by the Secretary to implement subsection (a) of this section may include regulations requiring that any noxious weed imported or entered into the United States or moving interstate be accompanied by a permit issued by the Secretary prior to the movement of the noxious weed.

#### (c) Unlawful sale, purchase, and transportation, and advertisements for unlawful sale, purchase, and transportation

No person shall knowingly sell, purchase, barter, exchange, give, or receive any such noxious weed which has been moved in violation of subsection (a) of this section, or knowingly deliver or receive for transportation or transport, in interstate or foreign commerce, any advertisement to sell, purchase, barter, exchange, give, or receive any such noxious weed which is prohibited from movement in such commerce under this chapter.

(Pub. L. 93-629, §4, Jan. 3, 1975, 88 Stat. 2149; Pub. L. 100-449, title III, §301(f)(4), Sept. 28, 1988, 102 Stat. 1869; Pub. L. 103-465, title IV, §431(f), Dec. 8, 1994, 108 Stat. 4968.)

#### AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103-465 amended subsecs. (a) and (b) generally. Prior to amendment, subsecs. (a) and (b) read as follows:

"(a) No person shall knowingly move any noxious weed identified in a regulation promulgated by the Secretary into or through the United States or interstate, unless such movement is—

"(1) from Canada, or authorized under general or specific permit from the Secretary; and

"(2) made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as the Secretary may prescribe under this chapter to prevent the dissemination into the United States, or interstate, of such noxious weeds.

"(b) The Secretary may refuse to issue a permit for the movement of any such noxious weed when, in his opinion, such movement would involve a danger of dissemination of such noxious weeds into the United States or interstate."

1988—Subsec. (a). Pub. L. 100-449 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "No person shall knowingly move any noxious weed, identified in a regulation promulgated by the Secretary, into or through the United States or inter-

state, unless such movement is authorized under general or specific permit from the Secretary and is made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as he may promulgate under this chapter to prevent the dissemination into the United States, or interstate, of such noxious weeds.”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

#### EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on the date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on the date the Agreement ceases to be in force, see section 501(a), (c), of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2807, 2809 of this title.

### § 2804. Quarantine

#### (a) Regulations for inspection

The Secretary may promulgate such quarantines and other regulations requiring inspection of products and articles of any character whatsoever and means of conveyance, specified in the regulations, as a condition of their movement into or through the United States and otherwise restricting or prohibiting such movement, as he deems necessary to prevent the dissemination into the United States of any noxious weeds, and it shall be unlawful for any person to move any products, articles, or means of conveyance into or through the United States contrary to any such regulation.

#### (b) Temporary quarantine of areas suspected of infestation; maximum period

Whenever the Secretary has reason to believe that an infestation of noxious weeds exist in any State, territory, or district, he may by regulation temporarily quarantine such jurisdiction, or a portion thereof, and by regulation may restrict or prohibit the interstate movement from the quarantined area of any products and articles of any character whatsoever and means of conveyance, capable of carrying such noxious weeds, and after promulgation of such quarantine and other regulations, it shall be unlawful for any person to move interstate from a quarantined area any such products, articles, or means of conveyance, specified in the regulations, except in accordance with such regulations: *Provided, however,* That such quarantine and regulations shall expire at the close of the ninetieth day after their promulgation.

#### (c) Promulgation after determination of necessity at public hearing

However, if, after public hearing, the Secretary determines, on the basis of the information received at the hearing and other information available to him, that such a quarantine and regulations are necessary in order to pre-

vent the interstate spread of noxious weeds from any State, territory, or district in which he determines an infestation of noxious weeds exists, and to protect the agriculture, commerce, fish, or wildlife resources of the United States or the public health, he shall promulgate such quarantine and other regulations as he determines are appropriate for such purposes, and thereafter it shall be unlawful for any person to move interstate from any quarantined area any regulated products, articles, or means of conveyance except in accordance with such regulations.

(Pub. L. 93-629, § 5, Jan. 3, 1975, 88 Stat. 2149.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2807 of this title.

### § 2805. Measures to prevent dissemination

#### (a) Emergency disposal of infested products and articles

Except as provided in subsection (c) of this section, the Secretary may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any noxious weed, seize, quarantine, treat, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, in bond or otherwise, and which he has reason to believe is infested by any noxious weed or contains any such weed, or which has moved into the United States, or interstate, and which he has reason to believe was infested by or contained any noxious weed at the time of such movement; and any noxious weed, product, article, or means of conveyance which is moving into or through the United States, or interstate, or has moved into the United States, or interstate, in violation of this chapter or any regulation hereunder.

#### (b) Orders requiring disposal by owner; enforcement

Except as provided in subsection (c) of this section, the Secretary may order the owner of any product, article, means of conveyance, or noxious weed subject to disposal under subsection (a) of this section, or his agent, to treat, destroy, or make other disposal of such product, article, means of conveyance, or noxious weed, without cost to the Federal Government and in such manner as the Secretary deems appropriate. The Secretary may apply to the United States District Court, or to the United States Court of any territory or possession, for the judicial district in which such person resides or transacts business or in which the product, article, means of conveyance, or noxious weed is found, for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpoenas for witnesses who are required to attend a court in any judicial district in such a case may run to any other judicial district.

#### (c) Destruction, export, or return as the least drastic action

No product, article, means of conveyance, or noxious weed shall be destroyed, exported, or re-